



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,603	07/10/2003	Christophe Pierrat	FTIS 1001-1	3620
7590 William C. Milks, III 401 Florence Street Palo Alto, CA 94301				
07/21/2010				
EXAMINER				
CHACKO DAVIS, DABORAH				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
07/21/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/616,603

Applicant(s)

PIERRAT ET AL.

Examiner

DABORAH CHACKO DAVIS

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-27, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16, at lines 6-7, recites "placing said layer on said sample in contact or close proximity with a lens element", and claim 16, at lines 7-9, recites "with a spacing between the lens element and the sample not greater than approximately the wavelength of the radiation divided by five". It is not clear how the spacing between the lens element and the layer to be imaged can be at a specified distance such as a radiation wavelength divided by 5, and at the same time, as claimed, the lens element can be in contact with the layer to be imaged i.e., the spacing is none and is within the range of a non-bonding contact distance of two objects that are in physical contact with each other. Appropriate correction is required.

3. Claim 16, at line 13, recites the limitation "the object on said layer". There is insufficient antecedent basis for this limitation in the claim.
4. Claim 17, at line 3, recites the limitation "the image". There is insufficient antecedent basis for this limitation in the claim.
5. Claim 20, at lines 3-4, recites the limitation "said other lens element". There is insufficient antecedent basis for this limitation in the claim.

6. Claim 22, at line 10, recites the limitation "the resist". There is insufficient antecedent basis for this limitation in the claim.
7. Claim 24, at line 8, recites the limitation "the resist". There is insufficient antecedent basis for this limitation in the claim.
8. Claim 25, at line 5, recites the term "distance". It is not clear if the term "distance" in line 5 of claim 25, is referring to the recitation i.e., "a distance from a corresponding main feature" recited in line 4 of claim 25 or not.
9. Claim 27, at lines 8-9, recites the limitation "the refractive indices and absorption coefficients of all the materials". There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

10. Claims 16-27, would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

11. Applicant's arguments, see Amendment, and Remarks, on pages 7-8, filed February 12, 2010, with respect to claim 16, have been fully considered and are persuasive. The 35 U.S.C. 102(b) rejection, and 35 U.S.C. 103(a) rejection of claims 16-20, and claims 21-27, respectively, has been withdrawn. See paragraph nos. 2 through 10, above.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daborah Chacko-Davis whose telephone number is

(571) 272-1380. The examiner can normally be reached on M-F 9:30 - 6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F Huff can be reached on (571) 272-1385. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Daborah Chacko-Davis/
Primary Examiner, Art Unit 1795

July 17, 2010.